

REMARKS

Claims 1-54 are currently pending. Claims 9-20 and 31-52 are currently withdrawn from consideration. Claims 1-8 and 21-30 are currently under consideration.

Claims 1 and 21 have been amended to recite, in part, a foam cushion backing comprising a foamable composition comprising an HBEB polymer component comprising at least 80% by weight of one homogenously branched ethylene polymer (HBEP). Support for this amendment can be found, for example, on pages 10 and 11 of the specification. Claims 3, 5, 8, 25, 27, and 30 have been amended to more particularly recite various features of the claimed invention. Support for these amendments can be found in the specification and claims as originally filed. New Claims 53 and 54 have been added to depend from Claim 1 and 21 respectively, and to recite additional features of the claimed invention. Support for these new claims can be found on page 11, lines 22-24 of the specification. No new matter has been introduced by these amendments.

The current Office Action has rejected pending claims 1-8 and 21-30 in view of U.S. Patent No. 6,187,424 to Kjellqvist *et al.* (hereinafter "Kjellqvist") based on a number of grounds. In particular, claims 1-8 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Kjellqvist, and claims 21-30 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious in view of Kjellqvist. While Applicants does not concede or agree with the specific rejections presented in the current Office Action, at least for the reasons set forth below, Applicant respectfully submits that Claims 1-8 and 21-30, as amended, are patentable over the teaching of Kjellqvist and therefore the instant rejections should be withdrawn.

Initially, it is well established that in order to be a novelty defeating reference, the art of record must disclose each and every feature of the claimed invention. As amended, Claims 1 and 21 each now recite a foam cushion backing comprising a foamable composition comprising an HBEB polymer component comprising at least 80% by

weight of one homogenously branched ethylene polymer (HBEP). In contrast, the disclosure of Kjellqvist fails to disclose a foamable composition comprising a polymer component, wherein at least 80% by weight of the polymer component is comprised of any one polymer, and therefore fails to disclose each and every feature of Applicant's claims.

In particular, Kjellqvist is directed to a sheet material comprising a polymer mixture and an optional filler dispersed with a compatibilizer in the polymer mixture. See for example, the Summary of the Invention, Col. 2, lines 36-59. The polymer mixture is further comprised of at least a polymer A and a polymer B, and optionally a polymer C. The weight ratio of the required polymer B to the total amount of required polymer A and any optional polymer C is at least 0.5. Col. 2, lines 60-62. Thus, the weight ratio of polymer B to the total of polymers A and C is at least 1:2. When expressed in terms of weight percentage, polymer B therefore represents at least a third or 33.3 weight % of the total polymer mixture. Similarly, the total weight percentage of polymer A and any optional polymer C is at least 25 weight % of the polymer mixture. Col. 2 lines 64-67. Therefore, it necessarily follows that Polymer B cannot exceed 75 weight % of the polymer mixture and must therefore be present in the range of from at least 33.3 weight % up to a maximum of 75 weight %. Likewise, since Polymer B is present in an amount of at least 33.3 weight % of the polymer mixture, the total weight percentage of polymers A and any optional polymer C cannot exceed 66.6 weight % and must therefore be present in the range of from 25 weight % to a maximum of 66.7 weight %. Therefore, the polymer mixture of Kjellqvist, comprising a polymer A, polymer B, and optional polymer C, cannot comprise any more than 75 weight % of any one polymer and, as such, fails to anticipate a polymer component having at least 80% by weight of one homogenously branched ethylene polymer (HBEP), as recited in Applicant's Claims.

With respect to the current obviousness rejections under 35 U.S.C. § 103(a), it is also well established that a *prima facie* case of obviousness must satisfy at least two requirements. First, the art of record must teach, or at least suggest, the claimed

invention as a whole. Second, there must be an identification of requisite motivation and a reasonable expectation of success to undertake the combination or modification proposed in the rejection. At least for the reasons set forth below, Applicant respectfully submits that the requirements of a *prima facie* case of obviousness are not satisfied by the disclosure of Kjellqvist.

As set forth in detail above, Kjellqvist provides specific set of guidelines indicating the relative weight percentages of the various polymers A, B and C within the polymer mixture. These guidelines preclude any teaching of composition wherein at least 80 weight % of a polymer component is provided by a single HBEP polymer. In particular, no one polymer can be present in an amount greater than 75 weight % of the polymer mixture. Thus, for at least this reason alone, Kjellqvist fails to teach or suggest Applicant's claimed invention as a whole.

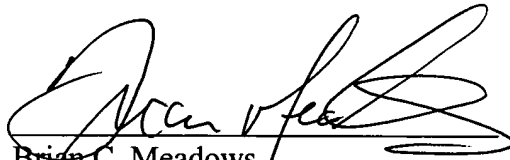
Furthermore, Kjellqvist similarly fails to provide the requisite motivation to deviate from these specific guidelines. Simply put, there is no motivation in Kjellqvist to arrive at a polymer mixture wherein more than 75 weight percent of the mixture is comprised of a single polymer, much less any motivation to arrive at a polymer mixture wherein at least 80% is provided by one homogenously branched ethylene polymer as recited in Applicant's claims. Therefore, for at least these reasons, Applicant's claims 1-8 and 21-30 are not obvious in view of Kjellqvist's disclosure.

CONCLUSION

In view of the foregoing Amendments and Remarks, it is respectfully asserted that the rejections set forth in the Office Action of December 23, 2005 have been overcome and that the application is in condition for allowance. Therefore, Applicant respectfully seeks notification of same.

Respectfully submitted,

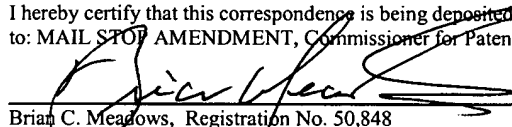
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